

DEC 15 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ANA MARIA GOMEZ-CISNEROS; et
al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 08-73065

Agency Nos. A095-313-456

A095-313-457

A095-313-458

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 1, 2008**

Before: GOODWIN, CLIFTON and BEA, Circuit Judges.

This is a petition for review from the Board of Immigration Appeals’
 (“BIA”) order dismissing an appeal of an immigration judge’s denial of

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

cancellation of removal as to petitioner Ana Maria Gomez-Cisneros, A095-313-456, and from orders adopting and affirming an Immigration Judge's order denying the two minor petitioners' applications for cancellation of removal.

Respondent has filed a motion to dismiss this petition for review for lack of jurisdiction. We construe this motion in part as a motion for summary disposition.

We have reviewed the motion to dismiss this petition for review for lack of jurisdiction, and we conclude that petitioner Ana Maria Gomez-Cisneros, A095-313-456, has failed to raise a colorable constitutional or legal claim to invoke our jurisdiction over this petition for review. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926 (9th Cir. 2005); *Torres-Aguilar v. INS*, 246 F.3d 1267, 1271 (9th Cir. 2001). Accordingly, respondent's motion to dismiss this petition for review for lack of jurisdiction is granted. *See* 8 U.S.C. § 1252(a)(2)(B)(i); *Romero-Torres v. Ashcroft*, 327 F.3d 887, 892 (9th Cir. 2003); *Montero-Martinez v. Ashcroft*, 277 F.3d 1137, 1144 (9th Cir. 2002).

A review of the administrative record demonstrates that the minor petitioners, A095-313-457 and A095-313-458, have presented no evidence that petitioners have a qualifying relative for purposes of cancellation of removal as defined in 8 U.S.C. § 1229b(b)(1)(D). *See Molina-Estrada v. INS*, 293 F.3d 1089, 1093-94 (9th Cir. 2002). The BIA therefore correctly concluded that, as a matter

of law, the minor petitioners are ineligible for cancellation of removal.

Accordingly, respondent's motion for summary disposition is granted as to the two minor petitioners because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam).

All other pending motions are denied as moot. The temporary stay of removal and voluntary departure confirmed by Ninth Circuit General Order 6.4(c) and *Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004), shall continue in effect until issuance of the mandate.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.